



# Frequently Asked Questions about Ecology's Rule-making Process

from Ecology's Rules Unit

## **Q: What is rule making?**

**A:** Rule making is when the Department of Ecology (Ecology) proposes, and adopts rules to protect the environment and public health. The Washington State Legislature guides all state rule making through a law known as the Administrative Procedure Act (APA), Chapter 34.05 RCW. All state agencies must follow the requirements of the APA.

## **Q: Is there an Ecology program that coordinates rule making for the agency?**

**A:** Yes, the Rules Unit, in the Governmental Relations Office, coordinates all Ecology rule making. Jerry Thielen is the Agency Rules Coordinator.

## **Q: What is a WAC?**

**A:** WAC stands for Washington Administrative Code. WACs are rules, adopted by agencies, including Ecology, to implement state or federal laws. The WAC contains all adopted rules and the history of all previously existing rules and amendments in the State of Washington. Ecology rules are found under Titles 173 WAC, Title 508 WAC, Title 317 WAC and Title 197 WAC.

## **Q: What do the WAC numbers mean?**

### **A: 173-213-050**

<b>"173"</b> This is the Title number. Ecology rules are found under Titles 173, 508, 317 and 197.	<b>"213"</b> (Written as <i>Chapter 173-213</i> WAC) This number represents a chapter within a given title.	<b>"050"</b> (written as <i>WAC 173-213-050</i> ) This number represents a section within the chapter.
--	---	--

**Q: What is a RCW?**

**A:** RCW stands for Revised Code of Washington. An RCW, or law, is the result of legislation passed by the House and Senate and signed by the Governor. The Revised Code of Washington contains all laws adopted in the State of Washington, as well as a history of all laws that previously existed or have been amended.

**Q: What do the RCW numbers mean?**

**A: 34.05.110**

<b>“34”</b> This is the Title number.	<b>“05”</b> (Written as Chapter 34.05 RCW) This number represents a chapter within a given title	<b>“110”</b> (written as RCW 34.05.110) This number represents a section within the chapter.
---------------------------------------	---	--

**Q: What is the statutory authority?**

**A:** Statutory authority is when the Legislature gives an agency the permission to write and adopt a rule on a specific subject. Each time a rule is adopted or amended the statutory authority is listed in a paragraph below a specific section of the rule.

Below is an example of a statutory authority paragraph:

Statutory Authority: RCW 42.17.250. 98-16-052 (Order 98-12), § 173-03-010, filed 7/31/98, effective 8/31/98. Statutory Authority: RCW 43.17.060 and 42.17.260. 90-21-119 (Order 90-37), § 173-03-010, filed 10/23/90, effective 11/23/90. Statutory Authority: RCW 42.17.250 - 42.17.340. 78-02-041 (Order DE 77-35), § 173-03-010, filed 1/17/78.]

**Q: Where can I get copies of WACs and RCWs that Ecology uses?**

**A:** There is a variety of options for you to choose from:

- **Ecology Laws and Rules Web Site** at: <http://www.ecy.wa.gov/laws-rules/index.html> : To download RCWs click on the “Index of Laws” Web page. To download WACs click on the “Index of Rules” Web page.
- **Ecology Public Records Office:** You can request a print copy of Ecology WACs and RCWs through Ecology’s Public Records Office using any of the following options:
  - Online order form at <http://www.ecy.wa.gov/biblio/forms/rule-order.asp>
  - Call our Public Records Office at (360) 407-6038
  - E-mail your request to: Julie Little at [jlittle461@ecy.wa.gov](mailto:jlittle461@ecy.wa.gov)

- Mail your request to:

Department of Ecology  
Public Records  
Attn: Julie Little  
PO Box 47600  
Olympia, WA 98504-7600

- **The Washington Code Reviser's Office:** The Washington Office of the Code Reviser manages the Washington Administrative Code. Contact their office, toll-free at 1-866-650-6369, to request a specific WAC or set of WAC's you need. There may be a fee to receive printed copies of rules.

You can also download Ecology WACs from the Code Reviser's Web site at <http://www.leg.wa.gov/wac/>.

**Q: What are the major phases in the rule-making process?**

**A:** There are three major phases in the rule-making process:

- **The first major phase is to file the Pre-Proposal Statement of Inquiry (also called the CR-101 form):**

When the CR-101 form is filed, the public is notified that Ecology is considering developing a new rule, amending an existing rule, or repealing an entire rule or sections of a rule.

- **The second major phase is to file the Notice of Proposed Rule Making (also called the CR-102 form):**

The CR-102 form can not be filed until 30-days after the CR-101 form is published in the Washington State Register. After this 30-day period an agency can file a CR-102 form at any time.

The CR-102 announces to the public that a change to an Ecology rule is being proposed. Included on this form is a brief description of the rule, the associated WAC number, a copy of the proposed rule text, as well as the date, time, and location of the public hearing(s), the deadline to submit comments, and the process for submitting comments. If appropriate, a Small Business Economic Impact Statement (SBEIS) is filed with this notice.

- **The third major phase is to file the Rule-making Order (also called the CR-103 form):**

The CR-103 form can not be filed until on or after the intended adoption date identified on the CR-102 form (Expedited and Emergency rules are exceptions). When the CR-103 form is signed by the Agency Director the rule is adopted. Usually, unless specified otherwise, a rule becomes effective 31 days after filing.

**Q: How long does it take from the time a rule is proposed (CR-102 form) until it becomes final (CR-103 form)?**

**A:** A rule can become final between 28 days after filing the CR-102 form and 180 days of the publication of the CR-102 form. No rule can be adopted before the intended adoption date identified on the CR-102. Those rules that are not finalized within 180 days after the publication of the CR-102 form are withdrawn from the process and can no longer be adopted without filing a new CR-102 form.

There are two exceptions to this time frame:

1. **Emergency rules** are filed using the CR-103 form. In most situations they become effective immediately.
2. **Expedited rules** are filed using an expedited process. Once the proposed rule is published there is a 45-day period before the rule can be adopted. On the 46<sup>th</sup> day, or any day after that, the rule can be adopted and usually becomes effective 31 days later.

**Q: Where can I get copies of Ecology's Proposed WACs?**

**A:** There are several ways to get copies of Ecology's proposed rules.

- **Join the WAC Track ListServ** at <http://www.ecy.wa.gov/maillist.html>  
After you subscribe to the list, you will receive an e-mail notice each time new rule-making information is posted to Ecology's Laws and Rules Web site.
- **Laws and Rules Web Site** at: <http://www.ecy.wa.gov/laws-rules/index.html>. Click on "Index of Current Rule-making Activity" to see a list of rules that Ecology is working on.
- **Contact Ecology:** Another way to receive information that relates to a proposed rule is to contact the program that oversees the rule-making activity. Contact information is provided on the CR-102 form.

In cases where expedited or emergency rule making are used, please contact Jerry Thielen, Agency Rules Coordinator, at (360) 407-7551 or [jthi461@ecy.wa.gov](mailto:jthi461@ecy.wa.gov).

- **The Washington Office of the Code Reviser provides you with the following option:**

The Washington State Register is a biweekly publication distributed, by the Office of the Code Reviser, on the first and third Wednesday of each month. The register is available online at: <http://slc.leg.wa.gov/wsr/register.htm>. The Register contains state agencies' pre-proposals, notices of proposed rules, emergency and permanently adopted rules, public meetings, requests for public input, notices of rules review, executive orders of the Governor, Court rules, summary of Attorney General Opinions, and Juvenile Disposition Standards. (Note: exceptionally lengthy rules are not printed in the *Washington State Register*.)

For ordering information contact the Code Reviser's Office Toll-Free 1-866-650-6369 (There may be a fee to receive printed copies of rules.)

**Q: Who do I call for information about a proposed rule?**

**A:** Contact information related to the rule making is provided on the CR-102 form. For rule makings that use the expedited or emergency process, contact Jerry Thielen, Agency Rules Coordinator, at (360) 407-7551 or [jthi461@ecy.wa.gov](mailto:jthi461@ecy.wa.gov).

**Q: When can I offer input or comments on a proposed rule?**

**A:** Ecology offers several formal and informal ways to provide input or comments on proposed rules.

- Input from the public is accepted by Ecology throughout the rule-making process. Opportunities include public workshops, participation on advisory committees, subscriptions to ListSerts and newsletters, and public hearings. However, the formal comment period begins with the publication of the CR-102 form in the Washington State Register. Only comments received during the formal comment period will appear in the Concise Explanatory Statement.
- Written and verbal comments on the proposed rule are accepted at the public hearing(s). Information about the location, date, and time of the public hearing(s) is provided on the CR-102 form. Information about public hearings can be viewed on the Laws and Rules Web Site at <http://www.ecy.wa.gov/laws-rules/index.html>.
- After the comment period ends, Ecology prepares the “Concise Explanatory Statement”. This is a document that responds to all comments Ecology received during the formal comment period.

**Q: Any tips on how to comment effectively?**

**A:** Identify who you are and how or why the rule affects you. Be sure to explain **why** you disagree or agree. Be direct in your comment. **It is particularly useful to offer alternatives, compromise solutions, and specific language for your suggested changes.** Type your comments, if possible. Indicate the specific rule making involved and refer to the WAC number listed on all rule-making documents. Be sure to include your name and address so that you can receive a copy of the Concise Explanatory Statement.

**Q: How do I submit my comments to Ecology?**

**A:** Ecology will accept comments in many formats. Information about where to send your comments is on the CR-102 form. You can submit comments in five different ways:

- **Written Comments:** Written comments must be postmarked no later than the final day of the formal comment period.
- **Verbal Comments:** Verbal comments can be offered at the public hearing(s). Verbal comments are entered into a formal hearing transcript.
- **Faxed Comments:** Comments sent by Fax, must arrive no later than the final day of the formal comment period.

- **E-mail Comments:** Comments sent via e-mail should include the comments in the body of the e-mail or as a Word-compatible file. They should be sent no later than the final day of the formal comment period.
- **TTY:** If you are a person who is speech or hearing impaired you can call 711 or 1-800-833-6388. The Sprint Relay Operator will help relay your comments to the Ecology contact person listed on the CR-102 form. Your comments must arrive no later than the final day of the formal comment period.

**Q: When is the formal comment period?**

**A:** The formal comment period is between the filing of the CR-102 form in the Washington State Register and the date indicated as the end of the comment period on the CR-102 form.

**Q: How will I know if and how Ecology responded to my comments?**

**A:** If you gave written or oral comments to Ecology, during the formal comment period, a copy of the Concise Explanatory Statement will be mailed to you at or near the same time the final rule becomes effective. You will be able to find your name listed in this document with a reference to where, in the document, Ecology responded your comments.

**Q: What is the difference between a permanent rule and an emergency rule?**

**A:** Ecology uses Emergency rules when a rule is necessary for the preservation of the public health, safety, or general welfare. Emergency rules are enforceable for a period of 120 days.

Emergency rules are typically used by Ecology in two ways:

1. To respond to a situation where the public health, safety, or general welfare is at risk for a short period of time. In these cases once the situation goes away the emergency rule is no longer needed.
2. To offer an immediate response to a permanent situation where the public health, safety, or general welfare is at risk. In these situations a permanent rule is necessary, but in order to respond quickly, Ecology adopts an Emergency Rule. While the emergency rule is being enforced the agency is able to coordinate the effort to adopt a permanent rule using the standard rule-making process.

**Q: What if I have an idea about how to make an existing rule better or a suggestion for a new rule?**

**A:** Ecology wants to hear your ideas about improving existing rules, or topics that you feel should be addressed in permanent rules. Please contact Jerry Thielen, Agency Rules Coordinator, at (360) 407-7551 or [jthi461@ecy.wa.gov](mailto:jthi461@ecy.wa.gov).

Information on this topic can be accessed through Ecology's Web site. The address is:  
<http://www.ecy.wa.gov/laws-rules/index.html>

*If you need this information in an alternate format, please call the Ecology's Executive Office at 360-407-7000. If you are a person with a speech or hearing impairment, call 711 or 800-833-6388 for TTY.*